

LABOR AGREEMENT  
BETWEEN  
THE CITY OF PORTLAND  
AND  
THE PORTLAND POLICE  
COMMANDING OFFICERS  
ASSOCIATION



July 1, 2010 – June 30, 2013

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**LABOR AGREEMENT**  
**between**  
**THE CITY OF PORTLAND**  
**and**  
**THE PORTLAND POLICE COMMANDING OFFICERS ASSOCIATION**

**PREAMBLE**

This contract entered into on this 1<sup>st</sup> day of July, 2010, between the City of Portland, Oregon, hereinafter referred to as the City, and the Portland Police Commanding Officers Association, hereinafter referred to as the Association, has as its purpose the promotion of harmonious relations between the City and the Association; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and conditions of employment.

**ARTICLE 1 - RECOGNITION**

The City recognizes the Association as the sole and exclusive bargaining agent for the purposes of establishing salaries, wages, hours, and other conditions of employment for all commanding officers employed in the Police Bureau of the City of Portland, excluding confidential and supervisory employees as defined in ORS 243.650 (6) and (23).

The parties agree that the ranking commanding officers assigned to the Personnel and Internal Affairs Divisions are confidential and excluded. With the exception of Articles 30 and 31, these commanding officers shall receive all the benefits of this collective bargaining agreement. It is also agreed that the Deputy Chief(s) and the Assistant Chief(s) positions are supervisory employees. As used in this agreement the terms “commanding officer” or “commanding officers” refers to any Lieutenant, Captain, or Commander who is a member of the bargaining unit.

**ARTICLE 2 - JOB PROTECTIONS FOR EMPLOYEES/MANAGEMENT RIGHTS**

**A. Temporary Assignment to a Higher Classification**

When a member within the bargaining unit is assigned temporarily to fulfill substantially all the duties and responsibilities of a higher classification for a period of three (3) consecutive days or more, the member shall be paid at the normal pay rate paid to an employee in the higher classification retroactive to the beginning of the assignment. If more than one employee is used at different times to fill the same position of the higher class and the position is vacant for three (3) consecutive days or more, the employees filling the position will be paid the higher rate for all time worked in the higher class (excluding regular days off). The rights of members temporarily assigned to a higher classification shall continue to be controlled by the collective bargaining agreement.

A commanding officer assuming the duties and responsibilities of Assistant Chief shall be paid at a rate of 4.1% above the Commander pay rate or the current rate for non-represented City employees whichever is greater.

When a member is assigned the duties and responsibilities of a higher classification, and the duties include being “on call” on a pager over the weekend, the weekend days “on call” will count toward the three (3) consecutive days for purposes of out-of-class pay.

*(Example: Lt. Jones is made acting Commander of Central Precinct for Friday, Saturday and Sunday. Since Lt. Jones is "on call" with a pager on Saturday and Sunday, Lt. Jones will receive out-of-class Commander pay for Friday. Lt. Jones is not otherwise compensated for being "on call" Saturday or Sunday.)* Commanding officers assigned the duties and responsibilities of a higher classification for five or more calendar days are authorized, with the approval of their supervisor, to appoint an acting commanding officer (Lieutenant, Captain, or Commander as it applies).

**B. Transfers**

No bargaining unit member will be assigned positions of Assistant Chief or Deputy Chief unless the City has made a bona fide effort to secure a volunteer for the assignment.

**C. Assignment as Commander**

A Captain who is assigned to the rank of Commander will be paid in accordance with the salary rate established in Schedule "A" of this Agreement. Assignment from the rank of Captain to Commander and from the rank of Commander to Captain is "at will" and made at the sole discretion of the Chief without regard to seniority. Captains assigned to the rank of Commander are so assigned in recognition of the added job duties and responsibilities of their position. Captains serving as a Commander do not accrue status or seniority in this assignment. Seniority is accrued only in the Civil Service classification of Captain from which the assignment is made.

**D. Management Rights**

1. General: The City shall exercise the sole responsibility for management of the City and the direction of its work force. To fulfill this responsibility, the rights of the City include but are not limited to: Establishing and directing activities of its employees; determining standards of service and methods of operation, including subcontracting and the introduction of new equipment; establishing procedures and standards for employment and promotions, layoffs, and transfers; to discipline or discharge for just cause; determine job descriptions; determine work schedules; assign work; assign City take-home cars and any other rights except as expressly limited by the terms of this agreement.
2. Civil Service: Nothing in this agreement shall preclude the Personnel Director from exercising his or her authority to classify, or reclassify positions and to establish entrance and promotional examination requirements. Employees shall perform all work assigned that is reasonably within the scope and terms of the classification specification, though not specifically described therein.

**E. Subcontracting**

1. The City agrees to notify the President of the Association of any plan to contract out or subcontract any work now performed by employees covered by this agreement, before the plan is actually executed and subcontracting has been done.
2. Before the City contracts out or subcontracts work now performed by employees covered by this agreement, the City agrees to meet with the Association, at its request, to discuss the effect of the contracting out plan involved and to explore

possibilities which might exist for reducing the impact, if any, on employees covered by this agreement.

**F. Civilianization**

When the City is contemplating civilianizing a position, it shall provide the Association with thirty (30) days' notice of its intent to civilianize. The City shall provide the Association with all materials developed supporting the decision to civilianize the position, and any additional materials requested by the Association to evaluate the economic feasibility of the change in status of the position. If requested by the Association, the City and the Association shall meet to discuss alternatives to civilianization. The City retains the discretion to either partially or completely implement the civilianization, or to retain the position in sworn status.

**ARTICLE 3 - EMPLOYMENT RELATIONS**

All conditions of employment relating to wages, hours of work, benefits, and working conditions which are mandatory subjects of bargaining not specifically mentioned in this agreement shall be maintained at the level in effect at the time of the signing of this agreement. Any disagreement between the Association and the Employer with respect to this section shall be subject to the grievance procedure.

**ARTICLE 4 - SERVICE IMPROVEMENT**

The delivery of essential municipal services in the most efficient and effective manner is of paramount importance and interest to both the City and the Association. Maximized service to the community is recognized to be a mutual desire of both parties within their respective roles and responsibilities.

The City values the contributions of commanding officers toward the overall mission and program goals of the Bureau of Police. The parties agree to confer at mutually convenient times to discuss means of increasing effectiveness and productivity.

**ARTICLE 5 - DUES DEDUCTION AND FAIR SHARE**

All members of the bargaining unit shall within thirty (30) days following appointment to the rank of Lieutenant or higher, either (1) become and remain a member of the Association, or (2) tender to the Association the Fair Share of the cost of negotiating and administering the labor agreement.

The City agrees to deduct the Association membership initiation fee and insurance, and once each month, dues and any additional recurring and periodic Political Action Committee and other assessments made by the Association which have been agreed to by the member, from the pay of members. The amount to be deducted shall be certified to the City by the treasurer of the Association, and the aggregate deductions of those members shall be remitted, together with an itemized statement, to the treasurer of the Association by the first day of the succeeding month, after such deductions are made.

If the employee has not joined the Association by the required time, the Fair Share will be automatically deducted from the employee's paycheck by the City and paid to the Association. No employee will be required to pay a Fair Share pursuant to this Article if the employee's refusal is based on bona fide religious tenets or teachings of a church or

religious body of which such employee is a member. Such employee shall pay an amount of money equivalent to regular dues to a non-religious charity or to another charitable organization mutually agreed upon by the employee and the Association. The employee shall furnish written proof to the City that this has been done.

Upon receipt of written certification from the Association that it has implemented a procedure which complies with the United States Supreme Court decision in Hudson v. Chicago Teachers and the amount of the Fair Share fee under that procedure, the City shall implement Fair Share deduction.

The Association agrees that it will indemnify and save the City harmless from all suits, actions, and claims against the City or persons acting on behalf of the City for all damages, attorney fees, penalties and costs or any combination thereof, arising out of the City's faithful compliance with the terms of this Article.

In the event of any suit or proceeding brought to invalidate the Fair Share fee or this Article, both parties will actively defend the suit or action. If the Fair Share fee or the Association's procedure is found to be invalid, the Association shall be solely responsible for any judgment as well as for the City's attorney fees.

In the event any suit, action, or proceeding is brought by any employee, citizen, or other party to invalidate this Article, both parties will actively defend the suit, action, or proceeding at their own expense. However, in the event any determination made by the highest court having jurisdiction that this Article is invalid and the reimbursement to the Fair Share must be made to employees affected, the Association shall be solely responsible for reimbursement.

#### **ARTICLE 6 - NO DISCRIMINATION**

The provisions of this contract shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, sexual orientation, religion, race, color, creed, national origin, disability, gender identity, source of income, family status, or political affiliation. The Association shall share equally with the City the responsibility for applying this provision of the Contract. Nothing in this section, however, shall be construed to prohibit actions taken because of bona fide job qualifications.

Upon notification to the Association of filing for redress of any item in this Article in another recognized legal forum, any grievance filed by that same employee or Association under this Article will be withdrawn.

All references to gender used in this Contract designate both sexes and when the male gender is used, it shall be construed to include both male and female employees covered by this Agreement.

#### **ARTICLE 7 - ASSOCIATION RIGHTS**

A. The City recognizes the basic right of the Association to exist and to do business for the mutual benefit of Association members and the City.

B. The City agrees not to interfere with the rights of commanding officers to become members of the Association, and there shall be no discrimination, interference, restraint or coercion by the City, or any City representative against any commanding officer because of Association membership or because of his/her activity in any official capacity on behalf of the Association.

C. The City and the Association recognize the mutual benefit of good labor relations. Furthermore, it is recognized that the President of the Portland Police Commanding Officers Association has a unique responsibility of representing the Association membership and working with the City to resolve legitimate problems. It is especially prudent to resolve grievances with the City at the lowest possible step of the grievance procedure.

D. The City will take no action to interfere with the ability of the Association and its officers to carry out legitimate Association responsibilities, including the conduct of meetings, preparation and circulation of Association documents and any other lawful assistance to bargaining unit members. In the spirit of maintaining consistency in Association leadership and good labor relations, the City agrees not to involuntarily transfer the Association President to a non-represented position during the term of his/her elected office. Exceptions must be mutually agreeable to both the Association and the City. Promotions are exempt from this provision.

E. Special conferences for important matters will be arranged between the Association President and the City or its designated representatives upon request of either party. Such meetings shall be arranged in advance, and an agenda of matters to be discussed at the meeting shall be presented at the time the conference is requested.

F. The City agrees to furnish and maintain suitable bulletin boards in convenient places in each work area to be used by the Association. The Association shall limit its posting of notices and bulletins to such bulletin boards, and such notices and bulletins shall be signed.

G. The Bureau of Police will furnish the Association with the current list of its members on a regular basis, identifying the commanding officer's address of residence, phone number, date of appointment, and place of Bureau assignment. Such list shall be kept confidential, used only for official Association business, and returned to the Bureau. The Association agrees not to disclose the names, addresses, or telephone number of non-Association members to any person who is not an elected or appointed Association representative. On a monthly basis, the City shall furnish the Association a list of all roster changes.

H. The City will furnish the Association with copies of all general, special, disciplinary and personnel orders when they are issued. Such orders shall include, but not be limited to, position announcements, job announcements, and training bulletins. When the City is contemplating changing its general orders, it shall provide the Association with all drafts of the to-be-amended general orders and provide the Association with an opportunity to comment on the drafts.

I. The City agrees to furnish each commanding officer of the bargaining unit with a copy of the applicable Rules Book (s) and provide him/her a copy of the Contract. The

cost of printing the Contract will be borne by the Association. Newly promoted commanding officers will be provided with the above at the time of his/her promotion.

J. Not more than four (4) members of the Association negotiating team (excluding the Association President) shall be permitted to engage in collective bargaining with the City's designated bargaining representatives without loss of pay. The shift and days off of negotiating team members shall be adjusted for the dates on which negotiations are held so that attendance at negotiations is on an on-duty basis. Members of the Association's negotiation team shall provide advance notice to their supervisors of the days on which negotiations are held. During mid-term bargaining, the Association shall limit the number of members of its bargaining team to the minimum number necessary to fully address the issue. The date, time and place for negotiating sessions shall be established by mutual agreement between the parties.

#### **ARTICLE 8 - LIABILITY**

The City shall fulfill all of its obligations to bargaining unit members as required by ORS 30.287.

#### **ARTICLE 9 - MILITARY SERVICE LEAVE**

Any commanding officer who is a member of the National Guard or the Military or Reserve Forces of the United States, and who is ordered by the appropriate authorities to attend a prescribed training program or to perform other duties under the supervision of the United States or this State, shall be granted a leave of absence with pay up to fifteen (15) calendar days, or eleven (11) working days per year; provided, however, that the officer must have been an employee of the City for six (6) months prior to the request for leave as provided in City Code 4.20.040.

#### **ARTICLE 10 - LEAVES OF ABSENCE**

Upon showing reasonable purpose, a commanding officer may be granted a leave of absence without pay for a period not to exceed thirty (30) days upon approval by the Chief of Police or the Chief's designee. The Chief, or his designee, will show good cause for denying such leaves. Such leaves may be renewed or extended for any reasonable period by the Chief of Police or the Chief's designee.

#### **ARTICLE 11 - EDUCATIONAL LEAVE**

A commanding officer may, upon approval of the Chief of Police or the Chief's designee, be granted a leave of absence without pay for educational purposes at an accredited institution when it is related to his/her employment. The Chief or his designee will show good cause for denying such leaves. The period of such leave may be for up to one (1) year, but may be renewed or extended at the request of the commanding officer, and at the discretion of the Chief of Police or the Chief's designee.

Any commanding officer who has been granted a leave of absence and who, for any reason except sickness or physical disability, fails to return to work at the expiration of said leave of absence, shall be considered as having resigned his position with the City effective the date his leave commenced.

## **ARTICLE 12 - DEATH LEAVE**

Up to three (3) days shall be allowed a commanding officer without deduction in pay by reason of the death of a relative. A relative includes spouse, parent, grandparent, child, grandchild, stepchild, sister, brother, sister-in-law, brother-in-law, mother-in-law, or father-in-law. With the approval of the Chief of Police or his designee, an additional three (3) days leave with no deduction in pay may be allowed for necessary funeral travel time. If the death is of the commanding officer's spouse or child, the Chief shall have the discretion to approve up to a total of thirty (30) days of paid death leave, including the leave described elsewhere in this article. The Chief's decision shall be final, and shall not be subject to the grievance procedure.

## **ARTICLE 13 - FAMILY LEAVE**

To provide employees the opportunity to balance their family commitments with their employment obligations, the City shall grant to employees in accordance with the Federal Family and Medical Leave Act of 1993 and the Oregon Family Leave Act (ORS 659.470 through 659.494), and as designated in the City's personnel rules and/or administrative procedures.

Any subsequent changes in the law or the Administrative Rules will be incorporated into this Agreement. Specific rules and/or administrative procedures are available from Bureau timekeepers or the Bureau of Personnel.

During periods of leave covered by the Federal Family and Medical Leave Act and the Oregon Family Leave statutes identified above, eligible employees shall be required to use accrued or accumulated paid leaves, including vacation and, when applicable, sick leave, prior to a period of unpaid leave of absence. The use of sick leave shall be governed by Article 14 except as indicated below in this article.

Parental Leave: In cases where an employee is eligible for Oregon Family Leave and has been granted leave to care for an infant or newly adopted child under 18 years of age, or for a newly placed foster child under 18 years of age, or for an adopted or foster child older than 18 years of age if the child is incapable of self-care because of mental or physical disability ("parental leave"), such employee shall be allowed to use sick leave, vacation credits or compensatory time off during the period of parental leave, as provided by state law. Parental leave entitlement under federal and state law may only be taken on an intermittent basis with member's supervisor's approval for each instance of intermittent leave requested.

If an employee is eligible for Oregon Family Leave and has been granted leave to care for a family member with a serious health condition and has exhausted all other forms of paid leave allowed in this article and in Article 14 - Sick Leave, the employee may use additional sick leave. For purposes of this provision, "serious health condition" and "family member" are as defined in ORS 659.470 to 659.494.

If the duration of the employee's family leave is longer than the amount of the employee's accrued paid leave (not including sick time) the employee may choose to be placed on unpaid leave of absence or sick leave for the duration of the family leave after using all other accrued leave. In no event may an employee use sick leave under this section to extend family leave beyond twelve (12) weeks per calendar year.

Pregnancy Leave will be granted for disability due to pregnancy or a period of absence for prenatal care. The time for commencing and terminating such leave will be a medical decision certified by the attending physician. Sick leave and vacation credits may be used to cover all or part of the absence. Leave without pay for a pregnancy-related disability will be granted upon request.

#### **ARTICLE 14 - SICK LEAVE**

Sick leave accrual and provisions shall be in accordance with the provisions applicable to commanding officers in Chapter 4.28 of the City Code in effect as of April 15, 1989, except that sick leave payoff provisions shall apply as provided in this Article.

In situations where a commanding officer's spouse, parent, child or other person for whom the commanding officer is the legal guardian, becomes ill or injured and alternate means of transporting or caring for such person cannot be arranged immediately by the commanding officer, the commanding officer shall be permitted to use vacation time or sick leave. A maximum of five (5) days sick leave per year may be used as provided in this subsection. The commanding officer may be required to submit a doctor's certificate for any absence of three (3) days or more within a period of five (5) working days.

**Unused Sick Leave Upon Retirement.** Upon retirement, a commanding officer shall be permitted to apply unused sick leave credits in the following manner:

A. Individuals covered by the Public Employee Retirement System (PERS) shall be permitted to convert unused sick leave upon retirement in accordance with ORS 237.153 and PERS administrative rules, to the extent allowed by law.

**B. Unused Sick Leave Upon Retirement for Individuals Covered by the City of Portland Fire and Police Disability and Retirement Fund**

A commanding officer who has accumulated sick leave at the time of his retirement shall receive credit in an amount equal to thirty percent (30%) of the first four hundred and eighty (480) hours of such accumulated sick leave, fifty percent (50%) of the second four hundred and eighty (480) hours, and seventy percent (70%) of all accumulated sick leave in excess of nine hundred and sixty (960) hours up to a maximum of 2,080 hours. The cash value of such credit will be calculated on the basis of the commanding officer's pay rate at the time of retirement.

Upon retirement, a commanding officer shall receive a lump sum payment for the sick leave credit.

**C. Unused Sick Leave in the Event of Death**

The City will pay a lump sum cash payment equal to one hundred percent (100%) of unused sick leave to the surviving dependents of any commanding officer who dies prior to retirement. If the ordinance, statute, or rules for calculating the death benefit of a member of either the Fund or the PERS are amended to include the value of unused sick leave, this section will be amended to assure that double recovery does not occur.

## **ARTICLE 15 - HEALTH AND WELFARE**

### **A. Labor/Management Benefits Committee**

1. The parties agree to the continuation of the City-wide Labor/Management Benefits committee. The committee will consist of twelve (12) members. One member shall be appointed from each of the following labor organizations: the District Council of Trade Unions (DCTU), the Portland Fire Fighters' Association (PFFA), the City of Portland Professional Employees Association (COPPEA), AFSCME, Local 189 representing Emergency Communications Operators (BOEC), Municipal Employees, Local 483 representing Recreation Instructors (Recreation) and the Portland Police Commanding Officers Association (PPCOA). The remaining six members shall be appointed by the City.
2. A quorum of ten (10) voting members is required for the committee to take action. An absent committee member may designate a substitute with full voting authority. Any committee member may invite one or more visitors to attend committee meetings.
3. The committee shall select its chairperson, who shall serve at the will of the committee.
4. In order to make a recommendation to the City Council, at least ten (10) committee members must vote in favor of the recommendation. The committee shall be responsible for establishing internal committee voting and decision-making processes.
5. Members of the committee shall be allowed to attend committee meetings on on-duty time. In the event meetings are scheduled outside the regular shift hours of a committee member, the City shall make every effort to adjust the shift of the member to allow the member to attend while on duty.
6. The committee shall meet at least quarterly, and shall make written recommendations regarding plan design changes in the employee benefits program to the City Council no later than April 1st of each year.
7. The City Council shall retain the discretion to implement or reject any of the committee's recommendations. In the event the committee makes a recommendation that is consistent with the committee's authority, is actuarially sound and meets all the requirements of federal, state and local laws, and Council rejects the recommendation, any reductions in plan costs that may have occurred due to the change in plan design, will be treated as having occurred for the purposes of calculating the maximum City contribution under this agreement. These costs will be calculated by evaluating the premiums and/or rates as if the changes had occurred, the rates and/or premiums absent the changes and the number of participants under the plan(s) involved. (For example, if the self-insured plan two party rate would be \$298 per employee per month with the addition of a benefit design change "X", but Council rejects the design change and therefore the two-party rate is \$350 per month per employee, the City contribution will be increased \$52 per month per employee on the self-insured plan to give credit for the change.)

**B. Benefits Eligibility**

1. Permanent full-time employees shall be eligible for medical, dental, vision and life insurance coverage the first of the month following thirty (30) days of eligible service. Medical, dental, vision and life insurance benefits will be paid at 100% of the City contribution for those employees who have a Standard Hours designation of at least seventy-two (72) hours in a pay period in a benefits eligible, budgeted position.
2. Permanent part-time employees will be eligible for medical, dental, vision and life insurance coverage the first of the month following 174 hours of eligible service. Medical, dental, vision and life insurance benefits will be paid at 50% of the City contribution for any permanent employee who has a Standard Hours designation of at least forty (40) hours but less than seventy-two (72) hours in a pay period in a benefits eligible, budgeted position.
3. Medical, dental, vision and life insurance benefits may be denied to employees who are in a pay status for less than eighty (80) hours during a calendar month by the withholding of City-paid premiums for the subsequent month.

**C. Plan Options**

By the end of the Open Enrollment period for the 2010 – 2011 Plan Year, employees will enroll in the following healthcare plan options: CityCore/VSP, Kaiser NW HMO/Kaiser Vision, ODS Dental, Kaiser NW Dental.

**D. City Contributions**

For the duration of this Labor Agreement unless mutually agreed to by the parties, the City shall contribute ninety-five percent (95.0%) of the combined total medical, vision and dental rates adopted by City Council for the one party, two-party or family enrollees (whichever applies) for each of the medical, dental and vision options provided.

Benefit coverage for domestic partners will continue. Availability of domestic partner benefit is subject to continuing availability from the City's benefit employee benefit insurance carriers. The Committee will recommend eligibility rules governing domestic partner benefit coverage to the City Council.

**E. Employee Contributions**

1. Each payday, except for the third payday in a month, each employee shall contribute five percent (5%) of the combined total medical, vision, and dental rates adopted by City Council for the one party, two-party or family enrollees (whichever applies).

**F. Health Fund Reserves**

1. The Health Fund shall be maintained with adequate reserves to meet fund obligations, which include claims, Incurred But Not Reported Claims Reserves, and Large Claim Reserves. The committee shall make recommendations to the City Council on creating other reserves as appropriate.

2. The term “excess reserves”, as used in this agreement, shall be defined as the monies in the Health Fund that are not needed to meet fund obligations. Excess reserves shall remain in the Health Fund, but shall be subject to separate reporting to the committee.

3. The Health Fund and all reserves associated with the Fund must be maintained in an interest bearing account. Fund reserves shall be pooled, and shall not be allocated on an individual employee or employee group basis.

**G. Survivor Benefits**

The City shall provide to the spouse and eligible dependent children of an employee who is killed on the job, the same medical, dental and vision benefit plans available to active employees. The City agrees to continue the City contribution for the spouse and dependent children until the spouse becomes eligible for federal Medicare coverage or remarries and for each dependent child to the age which meets the eligibility requirements of the health plan in which they are enrolled.

The promise of the City to provide insured plans is dependent upon the continuing availability of such plans from an insurance carrier and the qualification by the retired employee with the plan while the retiree was employed with the City. Should an insurance carrier terminate the plan, the City shall attempt to replace it.

**H. Life Insurance**

1. The City shall provide each employee with a life insurance policy; said policy shall be secured and maintained in accordance with the City's existing practices.

2. The City shall make available supplemental life coverage on a voluntary, employee paid basis.

**I. Federal Health Legislation**

If the Federal Government enacts Federal Health Legislation, or if any taxing authority taxes or otherwise limits or restricts health care benefits paid by the City, the City and the Union will immediately negotiate on the effect of that legislation as it pertains to this Article.

**J. Disability Insurance**

The City shall modify the benefits plan to include the addition of disability insurance for employees if recommended by the Labor/Management Benefits Committee and approved by the Portland City Council.

**K. Funeral Expenses**

In the event a commanding officer is killed in the line of duty, or dies from injuries sustained in the line of duty, the City shall pay the sum of twelve thousand dollars (\$12,000.00) toward funeral and connected expenses to the commanding officer's surviving spouse (or, if none, to the commanding officer's heirs), regardless of amounts paid from other sources.

**L. Voluntary Participation in a Dependency Program**

Information regarding treatment of commanding officers in chemical dependency programs shall remain confidential and shall not be released to the public except as required by law.

**ARTICLE 16 - CONTINUATION OF CITY-PAID HEALTH AND WELFARE BENEFITS TO OFFICERS WHO ARE INJURED ON THE JOB OR WHO HAVE AN OCCUPATIONAL ILLNESS OR INJURY**

A. Commanding officers who incur an on-the-job injury or service connected disability shall continue to receive City-paid medical, dental, vision and life insurance continuation for themselves and their dependents for twenty-four (24) months while on non-paid status. Thereafter, the commanding officer is responsible for payment of medical, dental, vision and life premiums.

B. The City shall pay no more than a total of twenty-four (24) months of benefits (medical, dental, vision, life) per injury or disability in a thirty-six (36) month period from the date of the initial injury or disability. The City shall only be responsible for the City's share of any premium due.

C. Example A: Commanding Officer "A" incurs a service-connected injury to his/her hand. "A" is off work for sixteen (16) months. City-paid benefits continue while "A" is off work. Two (2) years after the initial injury, "A" re-injures his/her hand and is off for nine (9) months. The City will continue his/her benefits (medical, dental, vision, life) for the first eight (8) months. "A" is responsible for self-paying his/her benefits for the ninth month if the commanding officer wishes to continue benefits.

D. Example B: Commanding Officer "B" incurs a service-connected disability. "B" is off work for twenty-six (26) months. City-paid benefits continue for the first twenty-four (24) months while "B" is off work. "B" returns to work. Four (4) years after the initial disability, "B" is again disabled and is off work for six (6) months. City-paid benefits continue while "B" is off work.

E. Example C: Commanding Officer "C" incurs a service-connected injury to his/her hand. "C" is off work for twenty-four (24) months. City-paid benefits continue while "C" is off work. Two (2) years after the first injury, "C" injures her leg and is off for nine (9) months. City-paid benefits continue while "C" is off work.

F. If a commanding officer is medically separated from service due to personal injury suffered as a direct result of a traumatic injury sustained while on duty on or after the ratification of this Agreement while responding to an emergency situation, in a hot pursuit, or in an on-duty traffic accident, the City shall pay for the medical, dental, vision and life insurance premiums for the officer, and the medical, dental and vision insurance premiums for the commanding officer's eligible dependents, for the duration of the disability as limited below. Traumatic injury means a wound or a condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation and bacteria, but excluding stress and strain.

1. Medically separated means the commanding officer has been determined to be medically stationary and unable to perform his/her duties two years after the date of injury.

2. If the commanding officer is not medically stationary two years after the date of injury the commanding officer shall be considered to be medically separated under the following conditions:

- a. the commanding officer is unable to perform his/her required duties; and
- b. the Bureau has received information from the FPD&R or the Worker's Compensation Department that the commanding officer is incapable of any substantial gainful activity; and
- c. the commanding officer cooperates in treatment of the disability or in vocational rehabilitation; and
- d. the commanding officer agrees to submit to an independent medical and/or vocational assessment at the direction of the Bureau; and
- e. the commanding officer signs any necessary release(s) to the FPD&R, or the Worker's Compensation Department, and treatment providers to allow the Bureau to verify any of the requirements of Article 16 (F)(3) above.

3. If the commanding officer is not medically stationary sooner, the commanding officer shall be treated as medically stationary for purposes of Article 16 (F) on the fourth anniversary of the date of disability, regardless of the commanding officer's condition and shall be considered medical separated from the City on that date.

G. The provisions of Section F shall not apply if:

1. The personal injury is the result of stress; strain; occupational illness; or a chronic, progressive, or congenital disease (such as heart or pulmonary disease), unless there is a traumatic injury that is a substantial contributing factor to the personal injury; or
2. The personal injury is caused by the intentional misconduct of the commanding officer; or
3. The commanding officer was voluntarily intoxicated or under the influence of a controlled substance at the time he or she received the personal injury; or
4. The commanding officer was performing his or her duties in a grossly negligent manner at the time of the personal injury.

H. In order to be eligible for this insurance benefit, the commanding officer must be incapable of engaging in employment in a job which pays a salary or produces income equivalent to 50% of the current top wage in the classification the officer held at the time of the traumatic injury.

I. The determination of whether a commanding officer is capable of employment under Section G will be made through a vocational assessment conducted by a vocational rehabilitation specialist contracted to perform such assessments by the City.

J. The insurance benefit provided in this section shall be subordinated to other health insurance covering the commanding officer, including Medicare.

K. The obligation of the City to provide the insurance benefit to the commanding officer and the commanding officer's eligible dependents ceases when:

1. the commanding officer is able to return to work as a commanding officer; or
2. the commanding officer becomes capable of engaging in employment which pays a salary or produces income equivalent to 50% of the current top wage in the classification the commanding officer held at the time of the traumatic injury; or
3. the officer is otherwise eligible to retire.
4. The parties agree that for purposes of Article 16 (K), the commanding officer shall cooperate with City requests for annual medical updates and semi-annual earnings information. In order to avoid duplication of effort, this may include signing necessary releases to obtain the required information from the FPD&R or the Worker's Compensation Department.

L. If the City's obligation to provide the insurance benefit to a commanding officer ceases under Article 16 (K)(2), and the commanding officer's condition subsequently changes to where the commanding officer is again not capable of engaging in employment which pays a salary or produces an income equivalent to 50% of the current top step in the classification the commanding officer held at the time of the traumatic injury, the commanding officer's benefit under this article will be reinstated assuming the commanding officer is not disqualified under Article 16(K)(1), 16(K)(3) or 16(K)(4).

M. Notwithstanding any other provision of Article 16 (K) and (L), a disabled commanding officer receiving or eligible to receive benefits under Article 16 (K) and (L) shall not receive such benefits under the following conditions:

1. If the commanding officer is discharged; or
2. for any periods of time during which the commanding officer is incarcerated subsequent to and for the conviction of a crime.

N. No later than ninety (90) days following the execution of this Agreement, the parties shall form a committee to monitor the ongoing operation of Article 16. The committee shall review, among other items, the types of claims eligible for coverage under Article 16, the development of potential standards for the inclusion of certain stress or infectious disease injuries within Article 16, and the costs to the City of Article 16. The committee shall make non-binding recommendations to the parties no later than January 1, 2002 concerning the operation and potential modification of Article 16. If the City and the Association mutually agree to the inclusion of stress and infectious disease injuries, the inclusions may occur with no further action upon signing of a Memorandum

of Agreement between the Director of Human Resources and the Association and approved as to form by the Office of the City Attorney.

O. An injury or occupational illness is considered service connected if it is an accepted worker's compensation claim for PERS participants or is determined to be service connected by the Fire and Police Disability and Retirement Fund.

P. PERS commanding officers who have a deferred worker's compensation claim will be treated as if they have an accepted worker's compensation claim for purposes of City-paid medical, dental, vision, and life premiums. If a commanding officer's claim is accepted, they will be eligible to receive up to a total of twenty-four (24) months of City paid coverage as described in Section 16 (A) above. If a commanding officer's claim is denied, City-paid coverage will continue through the end of the month in which the denial is issued.

Q. A commanding officer who has a non-service connected disability or injury is eligible to participate in City group benefits (medical, dental and vision) at City group rates until Medicare eligible, no longer disabled, termination, or they fail to make the required premium payment. Commanding officers shall be responsible for payment of premiums including any administrative charges the City is entitled to charge self-pay participants under federal and state law.

#### **ARTICLE 17 - VACATION**

**Rates:** Earned vacation, based upon years of service, shall be accrued at the following rates:

<u>Year of Service</u>	<u>Bi-Weekly Accrual Rate</u>	<u>Annual Accrual Rate</u>
0 to 4	3.08 hours	80 hours
5 to 9	4.62 hours	120 hours
10 to 14	5.38 hours	140 hours
15 to 19	6.15 hours	160 hours
20 to 24	6.92 hours	180 hours
25 or more	7.69 hours	200 hours

Vacation shall be scheduled at times which are mutually agreeable to the commanding officer and the Chief or the Chief's designee.

**Accrual of Credits:** Vacation credits will accrue bi-weekly to the individual's account. Such credits may be accumulated up to a maximum of three (3) years' earnings as of the end of the first payroll period in January. Any credits in excess of that amount will be forfeited at that time. However, employees who sign a commitment to retire in a specific calendar year shall be allowed to accrue additional vacation for the purposes of vacation payment upon termination of employment. The amount of vacation paid shall not exceed four (4) years' accrual and all vacation in excess of four (4) years accrual shall be forfeited. Employees making a commitment to retire shall specify the date of their retirement and shall forfeit any accrued vacation in excess of the three (3) -year carryover limits above if they do not retire on that date.

Upon termination from service for any reason, or in the event of death, the commanding officer, or his or her heirs, shall be entitled to an immediate lump sum payment for accrued vacation credits, including those accrued in the current calendar year.

#### **ARTICLE 18 - JURY DUTY**

Human Resources Administrative Rule 6.09 will govern jury service.

#### **ARTICLE 19 - HOLIDAY COMPENSATION**

Effective January 1, 2011, commanding officers shall receive eleven (11) holidays per year. Seven (7) of the holidays shall be personal holidays to be taken at the mutual convenience of the commanding officer and the City. The remaining four (4) holidays shall be New Years Day, Independence Day, Thanksgiving and Christmas, and shall be recognized and observed as guaranteed paid holidays.

Personal holidays which have not been used during the calendar year in which they accrue shall be forfeited.

Commanding officers shall not normally be scheduled to work on any of the four (4) designated holidays. If a commanding officer is ordered to work on one of the designated holidays, he/she shall receive premium compensation of time and one-half in addition to regular pay in the form of either wages or compensatory time off, the form being at the sole discretion of the commanding officer

A commanding officer whose scheduled day off falls on one of the four (4) designated holidays shall receive a postponed holiday, with pay, to be taken at the mutual convenience of the commanding officer and the City. The number of hours credited to the commanding officer's account will be determined by the regular shift he/she was assigned to on the day before and the day after the holiday. For example, a commanding officer working an 8-hour shift shall receive eight (8) hours of holiday pay versus a commanding officer who normally works 10-hour shifts who shall receive ten (10) hours of holiday pay.

Eligibility for holiday pay under the preceding paragraph is contingent upon the commanding officer being in pay status on the work day preceding the designated holiday and on the work day following the holiday.

Compensatory time accrued under this section; not exceeding sixty (60) hours may be carried from one calendar year to the next. Upon termination from service for any reason, or in the event of death, the commanding officer, or his or her heirs, shall be entitled to an immediate lump sum payment for compensatory time accrued under this section.

#### **ARTICLE 20 - SENIORITY AND LAYOFF**

Seniority shall be defined as the length of service by the commanding officer in the Bureau within his/her Civil Service classification following his/her most recent appointment. Time spent in the Armed Forces, on military leave of absence, other authorized leaves, and time lost because of duty-connected disability shall be included in length of service.

**Layoff.** In the event of a layoff for any reason, commanding officers shall be laid off in the inverse order of their seniority in their classification. Any commanding officer who is to be laid off who has advanced to his/her present classification from a lower classification in which he/she held a permanent appointment shall be given a position in the lower classification. Their seniority in the lower classification shall be established according to the date of their permanent appointment to that classification.

**Recall.** Commanding officers shall be reinstated from layoff according to seniority in the classification from which the commanding officer was laid off within the Bureau. No new commanding officers shall be promoted to any classification until all commanding officers on layoff status in that classifications have had an opportunity for reinstatement. Commanding officers shall be entitled to reinstatement rights for a period of five (5) consecutive years from the date of the layoff.

### **ARTICLE 21 - CLOTHING/EQUIPMENT ALLOWANCE**

The City will provide uniforms on a fit-to-size basis for all members of this bargaining unit.

A clothing allowance of \$390 per year will be furnished to those personnel whose assigned duty will require the wearing of civilian clothing. The Chief of Police will designate in writing the duty assignments which require dress other than the prescribed uniform and, for such designated duty, the commanding officers will be paid a cash clothing allowance prorated for the number of full months served in said assignment.

Those members whose assignment does not qualify them to receive the clothing allowance will receive a \$90.00 per year equipment allowance prorated for the number of full months served in said assignment.

The clothing or equipment allowance shall be paid via a separate warrant without withholding for taxes. Any allowance paid shall be shown on the annual W-4 form for tax purposes.

### **ARTICLE 22 - MILEAGE REIMBURSEMENT**

Whenever a commanding officer is authorized to utilize his/her own vehicle in the performance of official and assigned City duties, he/she shall be reimbursed for mileage in accordance with Internal Revenue Service audit rules for the use of a privately owned vehicle for business purposes. The mileage reimbursement rate cited above shall be adjusted on January 15 of each year.

### **ARTICLE 23 - OFF HOURS/EMERGENCY RESPONSE EQUIPMENT**

A. All commanding officers shall continue to be provided safety tools and equipment, including ammunition at no cost, as they are now being provided. Practice ammunition shall be provided to commanding officers for use in all Bureau approved weapons.

B. Commanding officers shall not be required to use their personal vehicles in carrying out any of their work duties. The City will reimburse the commanding officers

for the reasonable value of any personal property damaged or destroyed in the course of the performance of work or responsibilities.

C. Take-home vehicles furnished to commanding officers under this article shall be furnished at the same cost as is charged to all City employees.

**D. Firearms**

1. Current employees who have purchased their own Glock duty firearms shall continue to carry their personally owned weapons. The Bureau shall be responsible for the maintenance and repair of the personally owned weapons and for the replacement of the weapons if they are lost or stolen. If an employee who carries their personally owned weapon changes duty assignment to a position where the carrying of a different model weapon is more suitable to the assignment, the Bureau shall furnish the employee with the different model weapon. Disputes as to which model weapon is suitable to an assignment shall be referred to the Safety Committee. The Safety Committee shall make a recommendation to the Chief of Police who shall make the final decision.

2. When a commanding officer whose duty firearm has been purchased by the City retires, the employee shall be allowed the option of purchasing the firearm from the City at the price originally paid for the firearm by the City.

3. Modification of weapons allowable under Bureau rules (e.g., the addition of night sights or the installation of different magazines) shall be approved by the Bureau; the commanding officer requesting the modification shall be responsible for paying the cost of hardware used in the modification.

4. Commanding officers shall have an opportunity to purchase additional weapons from the City at the City's costs pursuant to the terms set forth in the Bureau's rules.

**E. Vests**

1. The City shall furnish protective vests to each commanding officer.

2. The vests provided by the City must meet or exceed the standards set by the Safety Committee. If the Safety Committee is unable to decide this matter, the final decision will be left to the Chief of Police or the Chief's designee. However, the vest provided by the Bureau must meet or exceed the ballistic threat level of Bureau-issued sidearm ammunition for day-to-day use by patrol officers.

3. Vests shall be replaced by the City in accordance with the manufacturer's recommended replacement schedule or when the vest fails, is damaged, or is rendered non-usable. If an employee desires to upgrade a vest before the vest is due to be replaced, the commanding officer shall be responsible for paying the entire cost of the upgraded vest.

4. If a commanding officer chooses to purchase his/her own vest, and if the City approves of the vest for use on duty, the City shall issue the employee a check or purchase order in the amount the City pays for the vest it most commonly issues to its commanding officers. If the additional cost of the vest is due to the vest not fitting the employee, the City shall pay the entire cost of the vest. Disputes as to whether an

issued vest fits shall be resolved by the Safety Committee. If the safety committee is unable to decide the matter, the final decision will be left to the Chief of Police or the Chief's designee.

5. Upon separation from employment, commanding officers shall return to the City vests the City has provided. If the City requests that a commanding officer return a vest provided under Section E, above, the City shall reimburse the employee for any additional cost of the vest paid by the employee in excess of the cost or purchase order issued by the City.

F. The City shall furnish commanding officers all required equipment, to include flashlights and handcuffs. The standards for required equipment and clothing shall be set by the Safety Committee and the Uniform Committee. However, the final decision will be left to the Chief of Police or the Chief's designee.

#### **ARTICLE 24 - EMERGENCY PROVISIONS**

A commanding officer involved in the management of or response to an emergency occurrence shall be provided with adequate hot meals.

#### **ARTICLE 25 - LIABILITY INSURANCE**

The City agrees to provide adequate liability insurance for commanding officers.

#### **ARTICLE 26 - PROFESSIONAL DEVELOPMENT**

The Association and the City mutually recognize the benefit of professional development for members of the Association. To accomplish this:

1. The City shall provide a Professional Development Fund in the amount of \$30,000 each fiscal year. Funds from this account not expended in a budget year shall be added to the next budget year's appropriation. Funds from this account may be used by a commanding officer for any of the following:

- a. Fees and/or tuition to professional development seminars, classes and conferences.
- b. Travel, per diem, and other expenses associated with attendance at professional development seminars, classes and conferences.
- c. Books, tapes and videos that may assist the commanding officer in his/her professional development.
- d. Membership dues or fees for work-related professional or civic organizations.

2. Scheduling of attendance at professional development seminars, classes and conferences that are more than eight (8) hours in duration shall be at the mutual convenience of the City and the commanding officer. The time spent in attending these seminars, classes and conferences including necessary travel time, shall not be charged against the commanding officer's accrued time in any leave category. The

City agrees to facilitate a commanding officer's attendance and to not use the "mutual agreement" provision as a method of controlling expenditures.

3. The administration of the fund shall be the responsibility of a three (3) member Professional Development Committee. Two (2) members of the Professional Development Committee shall be appointed by the PPCOA and one (1) member by the Chief of Police or the Chief's designee.

## **ARTICLE 27 - COMMANDING OFFICER EVALUATIONS**

In the event the Bureau adopts a formal performance evaluation system, copies of the standard (i.e. performance criteria, evaluation forms, or language used) shall be shared with the PPCOA. Performance evaluations shall not be subject to the grievance procedure. Before the City implements a performance evaluation system, it shall discuss the system with the Association and will bargain with the Association aspects of the system which are mandatory subjects of bargaining.

## **ARTICLE 28 - REGULATION OF OUTSIDE EMPLOYMENT**

### **A. Secondary Employment**

A commanding officer's outside employment shall not be regulated by the City except as it relates to work which is incompatible with or would tend to bring discredit on the Police Bureau.

1. Following an annual reminder by the Bureau, all commanding officers will notify the City prior to engaging in secondary employment through the submission of an extra employment form. Both the Association and the City shall mutually agree upon the design and content of the form.
2. The commanding officer's Bureau employment must always remain the employee's primary job.

### **B. Special Duty for Second Employers**

During the term of this agreement, the Bureau shall implement a system whereby employees are allowed to perform special duty work for a second employer. For purposes of this agreement, "special duty work" shall mean uniform or non-uniform work outside the commanding officer's regular shift contracted by the Bureau with secondary employers. The Bureau shall have the discretion to design the system subject to the following limitations:

1. The Bureau shall be responsible for the administration of the special duty work. Commanding officers desiring special duty work shall notify the Bureau of the days of the week and hours on which they will be available for work, and of any particular type of work they do not desire to perform.
2. When the Bureau receives a request for a special duty work commanding officer, it shall assign the work as follows:
  - a. If the special duty employer requests a particular commanding officer, the work shall, if possible be assigned to the employee requested provided the commanding officer is qualified for the work;

- b. If the special duty employer does not request a particular commanding officer, or if a requested commanding officer is unavailable to perform the work, the Bureau shall assign the work on a rotating basis to commanding officers who have indicated a desire to perform special duty work. When a commanding officer has worked special duty, the commanding officer shall be dropped to the bottom of the rotation list. The City shall have the right to refuse to assign a commanding officer special duty work if the special duty detracts from the employee's performance as a Bureau commanding officer, or if the special duty work is inconsistent with the commanding officer's employment status with the Bureau (e.g., the commanding officer is on disability status). The City shall not be liable to commanding officers for good-faith mistakes in the allocation of special duty work.
- c. The Bureau reserves the right to establish reasonable qualifications for specific types of special duty work.
- d. Special duty shall be performed at no lower hourly rate of pay than that received by a straight-time top-step police officer without regard to the rank of the commanding officer performing the work. However, if the Bureau determines that a commanding officer should be assigned, and the commanding officer performs supervisory or management duties while on special duty, the hourly rate of pay for the commanding officer shall be no lower than the hourly rate of pay received by a straight-time top-step Lieutenant, Captain or Commander (depending upon who was requested to perform the work). If no commanding officer is willing to perform the assigned work, the employee working in the commanding officer's role shall be paid no lower than the hourly rate of pay received by a straight-time top-step Lieutenant, Captain, or Commander (depending upon who was requested to perform the work).
- e. The Bureau shall provide portable radios to each employee performing special duty work.
- f. Commanding officers shall remain employees of the City of Portland while performing special duty work.
- g. If particular special duty work requires specialized training, and if the Bureau either conducts or coordinates the training, employees who have indicated an interest in the work which requires the specialized training shall be selected for the training in order of seniority. The Bureau reserves the right to establish the appropriate number of employees necessary to be trained in order to fill the needs of the second employer.
- h. All special work shall be voluntary.
- i. No commanding officer shall work more than twenty (20) hours per week of special duty work. Excluded from the twenty (20) hours is vacation, compensatory, or holiday time an employee takes off to work at an off duty job (i.e., an employee could take forty (40) hours vacation and work forty (40) hours

plus the allowed twenty (20) hours for a total of sixty (60) hours of work at the special duty job during a week.

j. No commanding officer shall solicit special duty work from a special duty employer.

k. For purposes of retirement under Chapter 5 of the Portland City Charter (Fire and Police Disability, Retirement and Death Benefit Plan), special duty work outside of a commanding officer's regular hours constitutes overtime. In the event that the Board of Trustees includes special duty pay in "base pay" for purposes of retirement under Chapter 5, the parties agree to meet and negotiate a substitute provision.

l. For purposes of retirement under the Public Employee Retirement System (PERS), special duty work for a second employer is not intended to constitute "salary". In the event that PERS determines that special duty work for a second employer requires employer/employee contributions to PERS, the parties agree to meet and negotiate a substitute provision.

m. In the event that the U.S. Department of Labor or the Oregon State Wage and Hour Division finds any provision of the special duty section article to be in violation of federal or state wage and hour provisions, the parties agree to meet and negotiate a substitute provision.

## **ARTICLE 29 - EMPLOYMENT RIGHTS**

A. All commanding officers within the bargaining unit shall be entitled to the protection of what shall hereafter be termed as the "Portland Police Members' Bill of Rights". The wide ranging powers and duties given to the Bureau and its members on and off duty involve them in all manner of contacts and relationships with the public and other Bureau members. Of these contacts come many questions concerning the action of members. These questions often require investigation by superior members and/or the Internal Affairs Division. In an effort to insure that these investigations, including EEO inquiries, are conducted in a manner that is conducive to good order and discipline, the following guidelines are promulgated:

1. Except as otherwise provided, the procedures contained in this section apply only to non-criminal investigations which may reasonably result in the discipline of the officer.

### **B. Advance Notice**

Prior to being interviewed regarding an IAD or EEO investigation for any reason which could lead to disciplinary action, an employee shall be:

1. Informed of the nature of the investigation and whether he/she is a witness or a suspect, if and when known; informed of other information necessary to reasonably apprise him/her of the nature of the allegations of the complaint. Such information shall be provided in a reasonable period of time following its receipt by the City.

2. Afforded an opportunity and facilities to contact and consult privately with an attorney of his/her choosing and/or a representative of the Association.
3. Whenever delay in conducting the interview will not jeopardize the successful accomplishment of the investigation or when criminal culpability is not at issue, advance notice shall be given the member not less than forty-eight (48) hours before the initial interview commences or written reports are required from the member.

**C. Interview Safeguards**

1. Any interview of a commanding officer shall be when the member is on duty unless the seriousness of the investigation dictates otherwise.
2. Interviews shall take place at a Portland Police Station facility, or elsewhere if mutually agreed, unless the emergency of the situation necessitates otherwise.
3. The commanding officer may have an Association representative present to witness the interview provided the representative does not participate in the interview. However, the interview may not be unduly delayed awaiting an unavailable Association representative when other Association representatives are available.
4. The commanding officer being interviewed shall be informed of the name, rank, and command of the member in charge of the investigation, the interviewing member, and all other persons present during the interview.
5. Interviews shall be done under circumstances devoid of intimidation or coercion and shall not otherwise violate the member's Constitutional Rights. The commanding officer member shall not be subjected to abusive language. No promise of reward shall be made as an inducement to answer questions.
6. Interviews shall not be overly long. The commanding officer shall be entitled to such reasonable intermissions as he/she shall request for personal necessities, telephone calls, and rest periods, with one ten (10) minute intermission every hour, if he/she requests.
7. All interviews shall be limited in scope to activities, circumstances, events, conduct or acts which pertain to the subject investigation.
8. The complete interview of the commanding officer, noting all recess periods, shall be recorded and the commanding officer upon request will be provided a copy of the recording, or he/she may also record the interview at his/her own expense. If the interviewed commanding officer is subsequently charged and any part of any recording of the interview is transcribed by the Bureau, the commanding officer shall be given a complimentary copy thereof.
9. Interviews and investigations shall be concluded with no unreasonable delay.

**D. When the Investigation Results in Charges Being Filed**

1. The commanding officer, upon request, will be furnished with a copy of all materials developed in the investigation that will contain all material facts of the matter. Such materials will be provided no later than seven (7) days prior to the commanding officer's mitigation hearing, and shall include any transcripts the City has prepared of recorded interviews. The obligation to disclose information to the officer under this section shall not apply to information required to be maintained as confidential under federal or state law.
2. The commanding officer will be furnished with the names of all witnesses and complainants who will appear against him/her and/or whose statements will be used against him/her.

**E. When Disciplinary Action Results**

1. When the investigation results in a determination of a sustained complaint and disciplinary action, only the findings and the disciplinary order may be placed in the commanding officer's Personnel and "201" files.
2. No dismissal, demotion or other punitive measure shall be taken against a commanding officer unless he/she is notified of the action and the reason(s) therefore prior to the effective date of such action.

**F. Personal Information**

No commanding officer shall be required for purposes of assignment or other personnel action to disclose any item of his/her property income, assets, source of income, or personal or domestic expenditures (including those of any member of his/her family), unless such information is obtained under proper legal procedures, or tends to indicate a conflict of interest with respect to the performance of his/her official duties, or is needed to substantiate a commanding officer's claim of financial hardship in applying for permission to engage in extra employment.

**G. Political Activity**

Except when on duty or when acting in his/her official capacity, no commanding officer shall be prohibited from engaging in political activity.

**H. Lie Detector Tests**

No commanding officer shall be required to take any lie detector or similar tests as a condition of continued employment.

**I. Personnel File**

All commanding officers shall have access to their Bureau personnel file, precinct file and any summary report of an IAD or EEO investigation in which they were a suspect. The commanding officer may submit rebuttal material as desired. However, the commanding officer may not have access to the background investigation report.

**J. Performance Evaluations**

While performance evaluations are not grievable, it is understood that the union representative may consult with the evaluator concerning a challenged non-probationary evaluation report.

**K. Deadly Force Incidents**

A commanding officer involved in the use of deadly force shall have the right to counsel and Association representation as set out in the Police Bureau Manual of Rules and Procedures.

**L. Criminal Investigations**

If the Bureau questions a commanding officer during a criminal investigation of one of its officers, it shall advise the commanding officer of the criminal nature of the investigation and whether the commanding officer is a suspect or a witness before interviewing the member. The preceding sentence shall not apply to covert or undercover investigations. If the commanding officer is a witness, the member shall be informed of and afforded the right to Association representation during any interview. Investigations of the use of deadly force by members shall be conducted pursuant to G.O. 1010.10.

**ARTICLE 30 - DISCIPLINARY ACTION**

Disciplinary action or measures shall include only the following: written reprimand; suspension; or in lieu thereof, with the commanding officer's concurrence, loss of vacation or non-FLSA compensatory time; demotion or discharge. Disciplinary action shall be for just cause and subject to the grievance procedure of this Agreement. This section shall not apply to counseling and instruction. Verbal reprimands will not be used as the basis for subsequent disciplinary action unless the commanding officer is notified at the time of reprimand, and if notified, the matter will be subject to the grievance procedure.

If the City has reason to reprimand or discipline a commanding officer, it shall be done in a manner that is least likely to embarrass the commanding officer before other employees or the public.

A commanding officer who is suspended, demoted, or discharged may choose between two avenues of appeal: (1) the commanding officer may exercise appeal rights under the Bureau of Human Resources Administrative Rules of the City of Portland, or (2) the Union may, in lieu of those provisions established pursuant to the City Charter, be allowed to take up the matter at Step II of the Grievance Procedure. These two avenues of appeal do not apply to a commanding officer who fails to successfully complete the twelve (12) month's probationary period in a promotional position and is reverted to his/her former classification. The twelve (12) month probationary period for a promotional position excludes any period of time off exceeding 120 consecutive work hours, or 160 total work hours. In these instances, the commanding officer's probationary period will be extended by the time in excess of 120 consecutive working hours or 160 total working hours.

A commanding officer who fails to complete the probationary period may be removed from the position without a statement of cause. A promoted individual so removed shall have return rights to a classification in which the commanding officer formerly held

status, beginning with the most recently held classification, unless he/she has been dismissed for cause.

If the City requires a commanding officer to submit to a fitness for duty evaluation, the commanding officer shall have the right to obtain copies of all documents generated as a result of the evaluation. If the City's evaluation is that the commanding officer is not fit for duty, the commanding officer shall have the right to obtain a second non-binding opinion at the commanding officer's own expense. The expense of the second opinion may be submitted for reimbursement to the City's health insurance system consistent with the City's Health Plan.

The City's Employee Information System and the information developed therein shall not form the basis for disciplinary action. Nothing in this agreement prevents the City from making appropriate use of the underlying data which appears in EIS, that is maintained separately by the City and is simply reflected in the EIS, in disciplinary, transfer or promotion decisions.

The parties continue to agree that City Resolution No. 35326 adopted by Council on November 2, 1994, shall apply to disciplinary matters concerning PPCOA members for conduct on or after December 9, 1995.

#### **ARTICLE 31 - GRIEVANCE PROCEDURE**

To promote better City – Association relations, both parties pledge their immediate cooperation to settle any grievance or complaint that might arise out of the application of this Contract, at the lowest level possible and the following procedure shall be the sole procedure to be utilized for that purpose. Any settlement of a grievance under this Article, which would alter or amend the terms of this agreement or any side bar or memorandum of understanding, shall not be binding on either party unless the settlement, or memorandum of agreement or side bar agreement, is approved in writing by the president of the Association and the Director of the Bureau of Human Resources.

The time limits prescribed in these provisions may be extended by a written mutual agreement between the City and Association. Days as used in this Article shall refer to work days, exclusive of Saturday, Sunday and designated holidays.

**Step I.** The Association or any commanding officer claiming a breach of any specific provision of this Contract may refer the matter, in writing, with or without the Association, to the Chief of Police. The grievant, or Association representative, shall state the nature of the grievance, the section of the Contract allegedly violated and the remedy requested. This grievance shall be presented within twenty (20) days from the date thereof. The Chief shall have twenty (20) days in which to reply. The response shall be in writing and made to the grievant and the Association.

**Step II.** If, after twenty (20) days from the date of the submission of the grievance to the Chief, or from the date of the reply, the grievance still remains unadjusted, the Association may present the grievance to the Commissioner-in-Charge. A copy of the grievance shall be sent simultaneously to the Bureau of Human Resources. Within one week of receipt of the grievance, the Commissioner-in-Charge shall either retain

jurisdiction of the grievance at this level or will refer jurisdiction of the grievance to the Bureau of Human Resources for resolution.

**Step III.** The Commissioner-in-Charge or the Bureau of Personnel shall have twenty (20) days in which to reply. If the grievance has been delegated to the Bureau of Human Resources, a copy of the reply shall be sent simultaneously to the Commissioner-in-Charge. If the Commissioner-in-Charge or the Bureau of Human Resources does not respond within twenty (20) days, or from the date of the response, the Association will have fourteen (14) days to serve notice, in writing, to the Bureau of Human Resources, with a copy of the notice sent simultaneously to the Commissioner-in-Charge, of its request for mediation or its intent to arbitrate.

**Step IV.** If the Association and City agree to mediate a specific grievance, the Association and the City shall mutually request mediation through the services of the State Conciliation Service.

**Step V.** If the parties are not in agreement after the completion of mediation, the Association will have fourteen (14) days to serve notice, in writing, to the Bureau of Human Resources, with a copy of the notice sent simultaneously to the Commissioner-in-Charge, of its intent to arbitrate.

**Step VI.** After the Bureau of Human Resources has been notified that the Association intends to arbitrate, the parties shall select an arbitrator by such methods as they may jointly elect. If they are unable to agree on such method, then the parties shall jointly request the Employment Relations Board to provide a list of the names of seven (7) arbitrators, the arbitrator to be selected by the method of alternative striking of names, with the Association striking the first name objectionable to it and the City then striking the first name objectionable to it. The final name on the list shall be the arbitrator.

The arbitrator's decision shall be final and binding on both parties, but the arbitrator shall have no power to alter in any way the terms of this agreement. The decision of the arbitrator shall be within the scope and terms of this agreement and the arbitrator shall be requested to issue the decision in writing, indicating findings of fact and conclusion, to both parties within thirty (30) days after the conclusion of the proceedings, including filing of briefs, if any. The decision may also provide retroactivity prior to the date the grievance was first filed with the Chief and shall state the effective date.

When the City has mathematically erred in computing or paying a commanding officer's pay or other benefits, such pay or benefits shall be awarded the commanding officer at the time the error is discovered by the City or otherwise brought to the City's attention.

Each party shall be responsible for paying the costs of presenting its own case in arbitration, including the payment of witness fees, if any. Expenses for the arbitrator's services and the proceeding shall be borne equally by the parties. If either party requests a court reporter, the requesting party shall pay the fee. In the event both parties request a transcript, the fee shall be borne equally by the parties.

## **ARTICLE 32 - SALARY**

1. Effective July 1, 2011, Schedule "A" wage rates will be increased by the Portland-Salem, OR-WA CPI-W with a minimum of one percent (1%) and a maximum of five percent (5%) at each step of the Salary Rates.

Upon adjustment of the 2010-11 salary schedule on July 1, 2011 for cost-of-living increase as described above, an additional three percent (3%) increase shall be applied to the salary schedule as an adjustment to the market (based on the following comparable cities: Fresno, Long Beach, Milwaukie, Oklahoma City, Sacramento, Seattle).

2. Effective July 1, 2012, Schedule "A" wage rates will be increased by the Portland-Salem, OR-WA CPI-W with a minimum of one percent (1%) and a maximum of five percent (5%) at each step of the Salary Rates.

### **3. Longevity**

Upon the completion of their fifteenth year of service with the Bureau, commanding officers shall receive longevity pay of 2.0%. Upon the completion of their twentieth year of service with the Bureau, commanding officers shall receive longevity pay of an additional 2.0%, for total longevity pay of 4.0%. Upon the completion of their twenty-fifth year of service with the Bureau, commanding officers shall receive longevity pay of an additional 2.0%, for total longevity pay of 6.0%.

Longevity pay shall be calculated on the basis of the commanding officer's regular rate of pay.

For purposes of this section, time worked for another law enforcement agency by a commanding officer who has transferred to City employment under ORS 236.605 to 236.640 (Transfer of Public Employees) shall be considered to be time worked with the Bureau.

### **4. Physical Fitness**

Effective July 1, 2011, members passing the Bureau's Health & Fitness test shall receive a premium in the amount of 1% of Top Step Lieutenant. To receive the premium, members must qualify annually. The Bureau's Health & Fitness test will be administered once per year; individuals who do not pass the first time will be allowed to take the test a second time.

5. In the event that City revenue sources should be decreased by the passage or impact of a tax limitation measure, legislatively mandated change, cut back in Federal and/or State revenue sharing, or any other conditions causing a worsening of the City's financial position, the City Council and the signatory labor organizations agree that they will meet and discuss the economic impact and, by mutual agreement, will put forth a good faith effort to arrive at alternatives to a reduction in the work force.

### **ARTICLE 33 - EXECUTIVE LEAVE/MANAGEMENT LEAVE/FLEX TIME**

The parties acknowledge that a variety of paid leave practices, under a variety of labels, related to members' having or being granted time off in exchange for time worked in excess of the directed work day have been allowed prior to and since recognition of this bargaining unit.

The parties agree that except as expressly provided below, no form or practice of Executive Leave, Management Leave, Flex Time, or any other form of compensatory time off or leave, whether known or unknown to the Chief of Police or the Bureau of Human Resources, is prospectively authorized or allowed, and all grievances, Unfair Labor Complaint allegations, and other claims are hereby waived and released. The parties further agree that the arbitration award issued in PPCOA v. City of Portland on December 7, 2010 by Arbitrator David Stiteler is rendered moot by this provision.

Exceptions:

1. Absence of Less Than One Day (aka Partial-day Absence) shall be allowed pursuant to current HRAR 8.03, which sets out the City's Absence of Less Than One Day policy for FLSA-exempt employees. The City reserves the right to modify or eliminate HRAR 8.03; in the event the City modifies or eliminates the Administrative Rule, the City agrees that PPCOA shall have the right to reopen this section to bargain the implementation and impact of such change.

Absence of Less Than One Day paid leave requires advance approval by the member's supervisor, and requires that the member work no less than half of his or her shift on the day leave is sought. Additionally, Absence of Less Than One Day may not be taken contiguous to (either before or after) paid vacation leave.

2. Adjusted Day Off schedule revisions shall only be allowed upon approval by a member's RU Manager; RU Managers' Adjusted Day Off schedule revisions shall only be allowed upon approval by the Chief of Police or the Assistant Chief in the member's chain of command.

### **ARTICLE 34 - DEFERRED COMPENSATION PROGRAM**

The City shall allow commanding officers to participate in a City Deferred Compensation Program that is currently available to employees. However, if the program is determined not to be allowable as a tax deferral under the Internal Revenue Code, the participating commanding officer shall hold the City and the Association harmless against any and all claims, demands, or other forms of liability arising as a result of any invalidation of the terms and conditions of the Program.

**ARTICLE 35 - VOLUNTARY EMPLOYEE BENEFICIARY ASSOCIATION (VEBA)**

A. The City shall allow commanding officers to participate in a Plan(s) which is defined to include a Voluntary Employee Beneficiary Association (VEBA), a Section 457 plan or any other form of non-qualified deferred compensation program.

B. In October 2002 the PPCOA VEBA and the Portland Police Association (PPA) VEBA entered into a merger agreement. All payments made on behalf of retiring PPCOA members shall be made to the "PPA Benefit Trust."

C. For every commanding officer who is covered under the FPD&R retirement system under Chapter 5 of the City Charter, the City shall, upon that commanding officer's retirement from the City, contribute to the PPA VEBA trust to the credit of the commanding officer 100.0% of the unused sick leave which otherwise would be paid to the commanding officer under Article 14 at the time of the commanding officer's retirement, as well as all vacation leave which is currently cashed out under Article 17 at the time of the commanding officer's retirement and any compensatory time off cashed out under this Agreement.

D. The amount of unused leave credits to be deposited into the Plan or Plans upon retirement under Section C above shall be established periodically by the Association. The Association shall be responsible to notify the City when the election for all Association members is modified.

E. A commanding officer who is covered under the Public Employees Retirement System (PERS), and who signs a commitment to retire in a specific calendar year, shall be allowed to cash out their unused vacation leave in one lump sum. A commanding officer who elects how to have unused vacation leave cashed out upon retirement must do so in writing at least two weeks prior to retirement. No cash payment will be made prior to the commanding officer's actual retirement.

F. For every commanding officer who is covered under PERS, the City shall, upon that officer's retirement, deposit into the account of the commanding officer in a Plan or Plans a maximum of 100.0% of unused vacation leave which is currently cashed out under Article 17 at the time of the commanding officer's retirement and any compensatory time off cashed out under this Agreement.

G. The City shall withhold two percent (2%) of Top Step Lieutenant's Pay from each individual commanding officer's gross wages per pay period. This amount shall be contributed on the commanding officer's behalf to the PPA Benefit Trust each pay period or monthly, the interval to be determined by the City. The withholding shall be made on a pre-tax basis.

H. If at any time during the operation of the Plan or Plans it is determined that (1) deposits may not be made on a pre-tax basis or (2) that plan earnings are not tax-exempt or (3) payments from the Plan or Plans are not tax exempt or if participation in the Plan or Plans or operation of the Plan or Plans is in violation of any federal or state law or regulation, then in that event the parties agree to negotiate a substitute provision in order to carry out the original intention of the Agreement.

### **ARTICLE 36 - SAFETY COMMITTEE**

A. A sworn safety committee consisting of equal numbers of represented and non-represented employees shall confer on City time with a view to maintaining safe equipment and safe working conditions. There shall be four represented employees; three appointed by and representing the Portland Police Association and one appointed by and representing the Portland Police Commanding Officers' Association.

B. If the committee meets on the time off of association appointees, the shifts and/or days off of the association appointees shall be adjusted to allow the appointees to attend the meeting on on-duty time.

C. The committee shall have co-chairs, one each selected by represented and non-represented employees. Among the members of the sworn safety committee, at least one member each from the City, the PPA and the PPCOA shall also serve as liaisons to the Police Bureau's standing safety committee.

D. The committee shall meet monthly. Upon mutual agreement, the committee may meet more or less frequently, but must meet at least once a quarter.

### **ARTICLE 37 - LEGAL FEES**

The City agrees to reimburse an association member for all reasonable, usual and customary legal fees charged by an attorney as a direct result of criminal charges or a criminal investigation arising out of the commanding officer's involvement in actions in the performance of his or her duty as a police officer

The reimbursement shall not be made if:

1. The commanding officer is convicted by verdict or plea, or pleads no contest to criminal charges arising out of the incident; or
2. The Bureau sustains disciplinary charges on the basis of the commanding officer's actions that formed the basis for the possible criminal liability, and the Bureau's sustaining of the charges is upheld on any appeals process.

Any reimbursement shall be made only at the conclusion of all criminal and disciplinary proceedings against the commanding officer arising out of the incident.

To receive reimbursement under this Article, the member must select one attorney from a list of fifteen (15) which has been mutually agreed upon by the Portland Police Commanding Officers Association and the City Attorney. Neither party shall unreasonably oppose the inclusion of an attorney on the list. Within sixty (60) days of the execution of this agreement, the PPCOA shall submit to the City Attorney the names of the attorneys it proposes for inclusion on the list. If no attorney on the list is available to represent a member, the member may obtain another attorney, and if the PPCOA notifies the City of the selected attorney by the close of the next working day, the City shall reimburse the member for the attorney's fees provided all other requirements of this Article are met.

Before becoming obligated under this Article, the City shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of time spent and describing briefly the purpose of such time. If the City in its discretion feels the charges exceed reasonable, usual and customary fees normally charged, the City may submit the bill to the Oregon State Bar Association for review. The Oregon State Bar Association's determination will be final and binding for the City's obligation under this Article.

This provision shall only apply to incidents occurring on or after the effective date of this contact.

#### **ARTICLE 38 - SALARY DIFFERENTIAL**

There shall be maintained a minimum differential of fifteen percent (15%) between the ranks of Lieutenant and Captain. However, the differential between the rank of Captain and Commander shall be a minimum of seven and one-half percent (7.5%).

#### **ARTICLE 39 - DOMESTIC PARTNERS**

For purposes of this agreement, the word "spouse" shall include "domestic partners" as that term is defined by the labor-Management Benefits Committee.

#### **ARTICLE 40 - ALTERNATIVE SHIFT SCHEDULE**

Should the Chief of Police decide to implement an alternative shift schedule to include, but not limited to, a four-ten or five-nine schedule, those options will be discussed with the Association. The decision to implement any alternative shift schedule is at the sole discretion of the Chief of Police.

#### **ARTICLE 41 - EMERGENCY EVENT COMPENSATION**

Commanding Officers assigned duties and responsibilities as the direct result of an emergency declared under Chapter 15.04 of the City Code and Charter shall be compensated for all hours worked in excess of the Commanding Officer's normally scheduled work hours rounded to the nearest one-half (½) hour.

#### **ARTICLE 42 - SAVINGS CLAUSE**

Should any section or portion thereof of this Contract be held unlawful and unenforceable by any court of competent jurisdiction, or upon mutual agreement of the parties, such decision shall apply only to the specific section or portion thereof, directly specified in decisions; upon the issuance of such a decision, the parties agree immediately to renegotiate a substitute, if possible, for the invalidated section or portion thereof.

**ARTICLE 43 - TERMINATION AND DURATION**

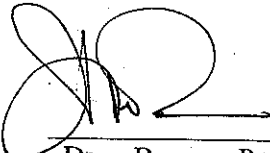
This Contract shall be effective on the date of execution of this agreement, except as otherwise specified in this agreement, and shall remain in full force and effect until June 30, 2013.

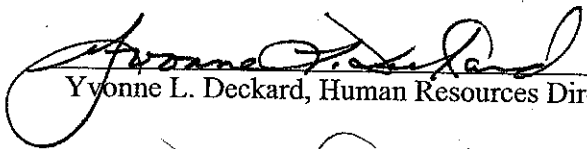
Negotiations for a successor Agreement shall begin not later than March 15. This Contract shall remain in full force and effect during the period of negotiations.


For the City of Portland


For the PPCOA


  
\_\_\_\_\_  
Sam Adams, Mayor

  
\_\_\_\_\_  
Dave Benson, President

  
\_\_\_\_\_  
Yvonne L. Deckard, Human Resources Director

  
\_\_\_\_\_  
James Ferraris, Vice President

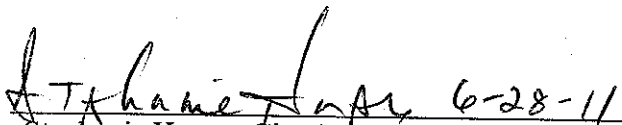
  
\_\_\_\_\_  
LaVonne Griffin-Valade, City Auditor


  
\_\_\_\_\_  
Robert Day, Treasurer

  
\_\_\_\_\_  
Vince Jarner, Secretary

Approved as to Form:

  
\_\_\_\_\_  
Bryan Parman, Member at Large

  
\_\_\_\_\_  
Stephanie Harper, City Attorney

  
\_\_\_\_\_  
Hank Kaplan, Attorney at Law

## SCHEDULE A - SALARY RATES

### Rates as of July 1, 2010

<u>JOB TITLE</u>	<u>ENTRY RATE</u>	<u>AFTER 1 YEAR</u>
Police Lieutenant	\$46.77	\$48.89
Police Captain	\$53.75	\$56.18
Police Commander	\$60.41	

## ATTACHMENT “B” – MEMORIALIZATION OF OTHER AGREEMENTS

The parties acknowledge that the Portland City Council adopted ordinances during the term of the parties’ 2006-2010 Collective Bargaining Agreement, and upon expiration during hiatus, concerning police oversight reform, including but not limited to changes to the duties, powers, and processes of the Independent Police Review division of the Auditor’s Office, the Police Bureau’s Police Review Board, and the Citizen Review Board. The parties further acknowledge that, pursuant to said ordinances, the City (including the Police Bureau and Independent Police Review Division) have adopted changes to police oversight policies and protocols. The parties agree that any PECBA obligations related to said ordinance, policy, and protocol changes are fully met and discharged.

The parties further agree that Drug Testing shall be conducted pursuant to Bureau Policy separately Tentatively Agreed to. Random testing there under shall not be conducted prior to July 1, 2011. The parties agree that any PECBA obligations related to random drug testing pursuant to said policy are fully met and discharged.

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